

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of:

Docket No.

DISCUSSION OF STEPS TO DECISION IN TMI-1
RESTART PROCEEDING

CLOSED PORTION --- EXEMPTION 10

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2 NUCLEAR REGULATORY COMMISSION
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4 DISCUSSION OF STEPS TO DECISION IN TMI-1
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6 CLOSED PORTION -- EXEMPTION 10

7 Nuclear Regulatory Commission
8 Room 1130
9 1717 H Street, N. W.
10 Washington, D. C.

11 Friday, April 15, 1983

12 The Commission convened in closed session at
13 2:45 p.m.

14 COMMISSIONERS PRESENT:

15 NUNZIO PALLADINO, Chairman of the Commission
16 VICTOR GILINSKY, Commissioner
17 JOHN AHEARNE, Commissioner
18 THOMAS ROBERTS, Commissioner
19 JAMES ASSELSTINE, Commissioner

20 STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:

21 S. CHILK
22 H. PLAINE
23 B. HAYES
24 R. LEVI
25 J. MONTGOMERY
M. MALSCH
A. KENNEKE

AUDIENCE SPEAKERS:

J. CUMMINGS

* * *

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P R O C E E D I N G S

1
2 CHAIRMAN PALLADINO: We will continue with the
3 closed portion of the meeting and Mr. Herzel Plaine will
4 continue with his presentation.

5 MR. PLAINE: In this closed session, members of
6 the Commission, we will have OI give a discussion of the
7 progress in the matters that it is dealing with. When that
8 is over with, we will have to excuse OI so that we can go
9 into a further closed session and ---

10 COMMISSIONER GILINSKY: You mean inner inner.

11 (Laughter.)

12 MR. PLAINE: --- so that we can continue, Mr.
13 Hayes, with the TMI restart discussion. So if you won't
14 mind going ahead with whatever you have or any of your
15 colleagues have.

16 CHAIRMAN PALLADINO: I gather you are going to
17 cover not only the status of your ongoing investigation,
18 but the existence of pending nature of any other
19 investigations.

20 MR. HAYES: Yes. Presently we have three
21 investigative matters that are a part of the TMI et al, if
22 you will.

23 The first, of course, is the Parks Gischel
24 matter which we are presently pursuing. The OI staff
25 members have been at TMI since Tuesday of this week.

1 I presented to the Commission a work plan asking
2 for 45 days to complete that work plan. We are in hopes of
3 resolving the first three items on that work plan dealing
4 with the technical area procedures and what-have-you as
5 quickly as possible.

6 Right now with only 72 hours into the
7 investigation I cannot really give you a firm commitment at
8 this point.

9 CHAIRMAN PALLADINO: Both of these, you say Parks
10 Gischel, both of them relate to Unit 2 specifically?

11 MR. HAYES: Yes, we are looking at both of those
12 affidavits as one investigation.

13 COMMISSIONER GILINSKY: Who is Gischel?

14 COMMISSIONER AHEARNE: They relate to Unit 2, but
15 the questions of the management flow over to Unit 1.

16 MR. HAYES: That is correct.

17 CHAIRMAN PALLADINO: Possibly.

18 COMMISSIONER AHEARNE: The allegations, because
19 the allegations certainly. Now whether they actually do is
20 something that Ben will have to find out.

21 COMMISSIONER ASSELSTINE: That is right.

22 CHAIRMAN PALLADINO: I don't recall Unit 1,
23 except from the general top management level.

24 MR. HAYES: That is correct, the top.

25 The other investigative matter, which is quickly

1 drawing to a conclusion, is our investigation concerning an
2 allegation made by Mr. Boring. That happened last year
3 sometime. We are right now reviewing the investigative
4 product. Bill Ward is reviewing that and we hope to
5 conclude that investigation within the next two or three
6 weeks.

7 Our observation is at this time that the
8 allegations are not founded, and in my view probably will
9 not have any impact on TMI.

10 CHAIRMAN PALLADINO: Now the Boring, is that the
11 welder qualification?

12 MR. HAYES: Yes.

13 COMMISSIONER GILINSKY: Is this the one that has
14 something to do with Senator Hatch?

15 MR. HAYES: Yes. Senator Hatch wrote a letter to
16 the Chairman and asked that an investigation be instituted.

17 The third investigation we completed. It dealt
18 with the psychological cheating tests. Quinn, if you
19 remember. We issued an investigative report I believe it
20 was last month sometime.

21 Mr. Cummings has given me comments on that
22 product and I have directed my staff to review his
23 comments to prepare documentation to me to determine
24 whether in our view his comments are appropriate and
25 correct and it may require us to reopen, if we feel that

1 Mr. Cummings' comments are valid, reopen and do additional
2 inquiries in the psychological testing area.

3 I hope to have within the next five to seven
4 work days that staff work done. At that time, I will sit
5 down ---

6 CHAIRMAN PALLADINO: When you say you will have
7 the staff work done, you mean the reopened investigation or
8 whether or not to reopen it?

9 MR. HAYES: The decision or at least my
10 recommendation as to what we should do from the standpoint
11 of OI. At that point I intend to meet with Jim Cummings and
12 discuss it. We have gotten together and we have hopes of
13 resolving it among ourselves.

14 COMMISSIONER GILINSKY: Let's see, with all due
15 respect to him, why is he involved?

16 MR. HAYES: He has oversight responsibility or
17 did have oversight responsibility.

18 COMMISSIONER AHEARNE: When we set up OI one of
19 the things that we did at the same time was to task OIA to
20 review their operation on a semi-annual basis.

21 CHAIRMAN PALLADINO: We gave them two charges.
22 One, we said would they until the end of fiscal '82 look at
23 each investigation. Since there were none before the end of
24 fiscal '82, we felt that they ought to wait until they get
25 a few under their belt and they have been giving comments

1 on that.

2 The second thing we said was I believe it was
3 every six months they were to make an audit of their
4 operation, and I don't know whether we had a time frame on
5 that or not.

6 COMMISSIONER GILINSKY: This is basically their
7 auditing role?

8 COMMISSIONER AHEARNE: Yes, right.

9 CHAIRMAN PALLADINO: They have also been looking
10 at these specific cases in the spirit of our request that
11 they look at the first six months of the investigations.

12 MR. HAYES: So every product that we have
13 generated up until a few weeks ago has gone to Mr.
14 Cummings' shop for his review.

15 That, gentlemen, concludes the three
16 investigative matters that we are currently looking at.

17 CHAIRMAN PALLADINO: Now on the Parks'
18 investigation, as I recall, there were three parts to it at
19 least, and I would be inclined to call it four parts.

20 One involved technical issues. One involved
21 harassment and intimidation, as I recall. One of them
22 involved possible collusion by the NRC and then there was
23 one that was inferred, but I think should be identified,
24 the mystery man issue.

25 I wasn't sure what you said about each one of

1 them. The technical you are doing first.

2 MR. HAYES: Yes.

3 CHAIRMAN PALLADINO: And you expect to have that
4 completed within your 45 days?

5 MR. HAYES: Hopefully. That is what we are
6 striving for.

7 CHAIRMAN PALLADINO: Okay. Then there was the
8 intimidation and harassment.

9 MR. HAYES: That would be the next priority that
10 we would look into. At the same time, Jim Cummings' staff,
11 they have their role in the collusion aspect and, as a
12 matter of fact, we had a briefing today jointly from the OI
13 staff people at TMI this morning at 9 o'clock for about an
14 hour to keep Mr. Cummings well read in on what we are
15 doing.

16 CHAIRMAN PALLADINO: I wrote down 45 days and i
17 wasn't sure what that meant.

18 MR. HAYES: Well, 45 days, Mr. Chairman, as I
19 remember, was for us to resolve is possible the technical
20 issues dealing with procedures, whether or not they were
21 violated, who did and who didn't and who authorized, that
22 sort of thing.

23 CHAIRMAN PALLADINO: But I was wondering, do you
24 expect the intimidation and harassment also to be in that
25 category?

1 MR. HAYES: No, sir.

2 CHAIRMAN PALLADINO: When might those come about?
3 I am not trying to get a commitment out of you. I am trying
4 to get a feel for ---

5 MR. HAYES: Yes, you are.

6 (Laughter.)

7 MR. HAYES: I would think if we can meet the 45
8 day schedule, then I would think it shouldn't take more
9 than 45 days to hopefully resolve the other aspects.

10 CHAIRMAN PALLADINO: An additional 45 days.

11 MR. HAYES: Well, we may during this 45 days pick
12 up testimony that would shorten that, but our thrust is to
13 try to resolve the procedures and what-have-you. So it is
14 difficult. We might be able to do both in 45 days, but at
15 the moment I can't say.

16 CHAIRMAN PALLADINO: And the collusion ---

17 MR. HAYES: Well, the collusion I would have to
18 turn to my colleague back here, Mr. Cummings.

19 MR. CUMMINGS: I think what we are trying to do
20 is to let the OI investigation go forward and get
21 developed. Then when it is developed we are going to try to
22 reach a point where it makes sense for us to start our part
23 of it, so to speak, in the collusion aspects without
24 interviewing people one right after another, that now you
25 talk to him and now to me. We are trying to phase it in and

1 I hope that once we start on it, which will maybe be next
2 week or the week after, I don't expect that it is going to
3 take us more than two or three weeks to finish that up.

4 MR. HAYES: I would think that our technical
5 aspect and his collusion aspect would probably be completed
6 on or about the same time frame hopefully.

7 CHAIRMAN PALLADINO: What about the mystery man
8 issue?

9 MR. HAYES: Mr. Chairman, I haven't the faintest
10 idea on that yet.

11 CHAIRMAN PALLADINO: It will probably be longer.

12 MR. HAYES: I would think so since it has been
13 lingering for many years. Whether or not we will ever
14 resolve that I question.

15 I might add that at TMI now there are three
16 investigations ongoing, ours, the Department of Labor and
17 their own internal Bechtel investigation. So the people
18 there, the employees, the affected people are being queried
19 numerous times by different governmental agencies as well
20 as their in-house investigation.

21 COMMISSIONER GILINSKY: Who is handling the
22 Hartman business?

23 MR. HAYES: Well, from what I understand, the
24 United States Attorney in Harrisburg. I have no open
25 investigation in OI.

1 CHAIRMAN PALLADINO: We finally got agreement on
2 the letter I believe and I signed it.

3 COMMISSIONER AHEARNE: After a fashion.

4 CHAIRMAN PALLADINO: After some ---

5 COMMISSIONER GILINSKY: You mean we haven't sent
6 a letter out yet?

7 CHAIRMAN PALLADINO: We sent it out only a few
8 days ago. Monday.

9 COMMISSIONER GILINSKY: And what did the letter
10 say? I thought I had approved one a long time ago.

11 COMMISSIONER ASSELSTINE: It was revised a couple
12 of times.

13 CHAIRMAN PALLADINO: I think it was essentially
14 your letter except it had some additional remarks.

15 COMMISSIONER ROBERTS: Specifically that I didn't
16 agree to the sending of the letter.

17 COMMISSIONER GILINSKY: Oh, I remember that.
18 (Laughter.)

19 CHAIRMAN PALLADINO: All right. Any other
20 questions for Ben Hayes on the allegations?

21 (No response.)

22 CHAIRMAN PALLADINO: Have any new ones come in
23 that you are aware of?

24 COMMISSIONER GILINSKY: Let me just ask here, we
25 are just going to wait for an answer from the Attorney

1 General?

2 CHAIRMAN PALLADINO: We asked for an answer, if I
3 recall correctly ---

4 COMMISSIONER ASSELSTINE: By May 15th, wasn't it?

5 CHAIRMAN PALLADINO: May 15th. But I don't know
6 if that is going to resolve the issue. Now the question is
7 if they say well, we are in no position to do anything by
8 that time, if they say (a) you can go ahead and make your
9 own investigation, well then we have got to see what we
10 want to do on that.

11 COMMISSIONER GILINSKY: Do we remember who it was
12 who told us to stop?

13 Jim, you were in conversation with someone
14 there?

15 MR. CUMMINGS: There was a meeting that was held
16 in Larry Libby's office.

17 COMMISSIONER GILINSKY: Who asked us not to
18 pursue the investigation?

19 MR. CUMMINGS: The Justice Department
20 specifically.

21 COMMISSIONER GILINSKY: I know, but who?

22 MR. CUMMINGS: I believe it was Larry Libby at
23 that meeting. It was a joint meeting with the general
24 staff.

25 CHAIRMAN PALLADINO: What time frame are you

1 talking about?

2 MR. CUMMINGS: This would have been May of 1980.

3 COMMISSIONER GILINSKY: Nothing in writing?

4 MR. CUMMINGS: We did not get it in writing.

5 COMMISSIONER GILINSKY: Is he still there?

6 MR. CUMMINGS: Yes, he is.

7 COMMISSIONER GILINSKY: Why don't we give him a
8 call and just say we think we need to pursue this. Of
9 course, we have just written the Attorney General.

10 COMMISSIONER AHEARNE: We have got a letter out
11 to the Attorney General.

12 COMMISSIONER GILINSKY: I guess we should have
13 thought of this before.

14 (Laughter)

15 MR. CUMMINGS: We have been calling them.

16 MR. PLAINE: If the Commission decides that they
17 want your group to make an investigation absent the Grand
18 Jury bringing anything in, how much time or staff would you
19 need for that? Do you have any idea at this point?

20 MR. HAYES: Some members of my existing staff
21 were originally on the first investigation. Now I do not
22 know to what extent they were proceeding. I would have to
23 rely upon them. I just don't know. I would think that it
24 would not be a matter that would be readily determined
25 because we would probably have to review all the

1 transcripts out of New York and a lot of other things.

2 COMMISSIONER GILINSKY: I would suggest that we
3 gear up at this point and not interview anybody, which is
4 really what Justice's request must have been. I mean it
5 wasn't that we not think about it. It was that we not get
6 involved in something by interviewing people or whatever.
7 But I think it is inevitable that we are going to want to
8 look into it and I think we need to do the homework that
9 will allow us to do it when we have reached some agreement
10 with Justice, because to be in the position then of having
11 to start from scratch ---

12 COMMISSIONER AHEARNE: You are right, no matter
13 which way they come out.

14 COMMISSIONER ASSELSTINE: That is right.

15 MR. HAYES: I tend to agree with you, and what I
16 have done in that regard is I have instructed my Director
17 in Region I to secure all investigative material that was
18 previously obtained during the first investigation and
19 secrete that away, if you will, in a file cabinet. We have
20 also put him on notice about a month ago when I met before
21 the Commission and there was a likelihood that I may be
22 directed to take a look at that. He started thinking about
23 the amount of resources necessary and what-have-you.

24 Up to that extent we had done that planning and
25 we are in essence on standby, if you will.

1 COMMISSIONER GILINSKY: But there are some other
2 documents that have just turned up. I think Hartman's
3 deposition ---

4 MR. HAYES: I have that.

5 CHAIRMAN PALLADINO: Now this leak rate test
6 question related to Unit 2, did it not?

1 Any other questions?

2 (No response.)

3 MR. PLAINE: If there are none, thank you, Ben.
4 we appreciate your help.

5 CHAIRMAN PALLADINO: Thank you, Ben.

6 MR. PLAINE: At this juncture, Mr. Chairman, we
7 will go into the closed, closed meeting.

8 (Laughter.)

9 CHAIRMAN PALLADINO: Is Ben the only one that has
10 to leave?

11 MR. PLAINE: No. I think a couple of people in OI
12 have to also.

13 MR. HAYES: If I have to leave, my staff is
14 going, too.

15 (Laughter.)

16 COMMISSIONER GILINSKY: I want to record to show
17 that Roxanne is leaving voluntarily.

18 (Laughter.)

19 (At this point in the proceedings Mr. Hayes and
20 his staff together with others left the room.)

1 Any other questions?

2 (No response.)

3 MR. PLAINE: If there are none, thank you, Ben.
4 we appreciate your help.

5 CHAIRMAN PALLADINO: Thank you, Ben.

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7 will go into the closed, closed meeting.

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